REMARKS/ARGUMENTS

The Office Action has been carefully considered. In the Office Action, it was noted that Claims 8 and 22-26 include elements having insufficient antecedent basis. Claims 8 and 22-26 have been amended for clarity. Applicants respectfully submit that that each element in amended Claims 8 and 22-26 has a sufficient antecedent basis.

In the Office Action, claims were rejected in the following manner.

1. Claims 1-37 were rejected under 35 U.S.C. § 102(b) as being anticipated by Published US Patent App. No. 2002/0007349 to Yuen (hereinafter "*Yuen*").

35 U.S.C. § 102(b) Rejections

Claims 1-37 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Yuen*. However, as discussed below, Applicant respectfully traverses because *Yuen* does not disclose each and every element recited in as complete detail and as arranged in Claims 1-37. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently, described in a single prior art reference." MPEP § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F. 2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the . . . claim." MPEP § 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. MPEP § 2131.

Claim 1

Claim 1 recites a method for providing conditional access to media content, the method comprising:

> receiving a request for the media content by a remote media rendering device, **the request received from a middleman server connected to the media rendering device on a local network**;
> receiving a device ID associated with the remote media rendering device;
> verifying based on the received device ID whether the remote media rendering device is approved to receive the requested media content; and
> granting the request if the remote media rendering device is approved to receive the requested media content.

Yuen, by contrast, discloses an eBook reader device that may download content that is restricted by geographic code. In particular, the Office Action asserts that *Yuen* discloses a

"non eBook type device" having a geographic "marker" that requests content from an "Internet server" that will refuse to provide content outside geographic areas defined by the rights holder. *See* ¶¶ [0019-20].

However, *Yuen* fails to disclose that a request for media content is received "from a **middleman server connected to the media rendering device on a local network**." On the contrary, *Yuen* discloses at most that a "user accesses an Internet server" and that if the rights to the requested content do not correspond to the device's "marker," then "content will not be successfully downloaded to the device" from the Internet server.

Thus, *Yuen* fails to disclose even the mere existence of a "middleman server connected to the media rendering device on a local network," let alone that such a middleman server makes a request for media content on behalf of a media rendering device, as claimed. For at least this reason alone, Applicants respectfully submit that the Office Action has failed to state a *prima facie* case that Claim 1 is anticipated by *Yuen*. Accordingly, Applicants respectfully submit that Claim 1 is in condition for allowance.

Claims 2-12 and 28

In addition, the Office Action fails to provide any rationale or explanation as to how *Yuen* anticipates "the device ID uniquely identifies the remote media rendering device that made the request," as claimed in Claim 2. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "the device ID uniquely identifies the type of remote media rendering device that made the request," as claimed in Claim 3.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates the device ID including at least one of "a manufacturer ID, a model number, a serial number, a MAC address, a portion of a MAC address, or a digital signature," as claimed in Claim 4. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "sending the requested media content to the middleman server for delivery to the remote media rendering device," as claimed in Claim 5. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "establishing a secure communications channel with the middleman server before sending the requested media content to the middleman server," as claimed in Claim 6. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "establishing a session with the middleman server for sending the requested media content to the middleman server for delivery to the remote media rendering device," as claimed in Claim 7. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "a number of concurrent sessions is limited to a predetermined maximum," as claimed in Claim 8. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "obtaining a rating associated with the requested media content; accessing an approved rating range for the media rendering device; and denying the request if the requested media content has a rating outside the approved rating range," as claimed in Claim 9. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "the requested media content is an audio file and the approved rating range specifies that no parental advisory content should be delivered to the media rending device," as claimed in Claim 10. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "receiving an input from a user to modify the approved rating range for the media rendering device," as claimed in Claim 11. Applicants have reviewed *Yuen* in detail and can find no such teaching.

The Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates "the request is received from and the media content is transmitted to the middleman server over the Internet," as claimed in Claim 12. Applicants have reviewed *Yuen* in detail and can find no such teaching.

Similarly, the Office Action also fails to provide any rationale or explanation as to how *Yuen* anticipates Claim 28.

For at least the reasons set out above, Applicants respectfully submit that the Office Action has failed to state a *prima facie* case that Claims 2-12 and 28 are anticipated by *Yuen*. Accordingly, Applicants respectfully submit that Claims 2-12 and 28 are in condition for allowance.

Claims 13-27 and 29-37

In the Office Action, Claims 13-27 and 29-37 were rejected under the same rational as Claims 1-12 and 28. Hence, as the Office Action failed to state a *prima facie* case that Claims 1-12 and 28 are anticipated, the Office Action similarly failed to state a *prima facie* case that Claims 13-27 and 29-37 are anticipated. Accordingly, Applicants respectfully submit that Claims 13-27 and 29-37 are in condition for allowance.

FINALITY OF THE NEXT ACTION IS PRECLUDED

As set out above, Applicants note that the Office Action omits any explanation of how *Yuen* anticipates Claims 2-12 under 35 U.S.C. § 102(b). By extension, the Office Action also omits any explanation of how *Yuen* anticipates dependent Claims 14-16, 18-27, and 30-37.

Applicant respectfully submits that this omission amounts to a failure to articulate a *prima facie* case of unpatentability and therefore the burden to rebut this rejection has not yet shifted to the Applicants. Consequently, any further Office Action rejecting Claims 2-12, 14-16, 18-27, and 30-37 cannot properly be made final because only then would the Applicants be obligated to rebut the rejection, presuming that such an Office action sets forth a *prima facie* case. *See* MPEP § 706.07(a).

<u>CONCLUSION</u>

For at least the reasons above, Applicants respectfully submit that all pending claims are allowable and request that the Examiner permit these claims to proceed to issuance. Although additional arguments are believed to exist for distinguishing the cited documents, the arguments presented are believed sufficient to address the Examiner's rejections. Likewise, failure of the Applicants to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing arguments, and it is therefore not believed necessary to respond to every position taken by the Examiner with which Applicants do not agree.

The Examiner is respectfully requested to contact the undersigned at the telephone number below if there are any remaining questions regarding this application.

We believe the appropriate fees accompany this transmission. If, however, insufficient fee payment or fee overpayment occurs, the amount may be withdrawn or deposited from/to AXIOS Law's deposit account. The deposit account number is 50-4051.

Respectfully submitted,

AXIOS LAW

Date: December 24, 2009   by: /Adam L.K. Philipp/

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